

1 Sean P. Flynn (SBN 220184)
2 sflynn@foleymansfield.com
3 **FOLEY & MANSFIELD, PLLP**
4 300 South Grand Avenue, Suite 2800
5 Los Angeles, CA 90071
6 Telephone: (213) 283-2100
7 Facsimile: (213) 283-2101

8 Attorneys for
9 **RECEIVABLES PERFORMANCE**
10 **MANAGEMENT, LLC**

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JOSHUA HALL,

14 Plaintiff,

15 vs.

16 RECEIVABLES PERFORMANCE
17 MANAGEMENT, LLC,

18 Defendant.

Case No: 13-CV-0805 BEN (RBB)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT'S EX PARTE
APPLICATION**

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND FACTS:

On August 26, 2013, the Court issued a Minute Order setting a further settlement conference for October 24, 2013 at 2:00 pm in the chambers of United States Magistrate Judge Ruben B. Brooks, 221 West Broadway, Courtroom 2C, San Diego, California. [Docket # 17.] The Court's August 26, 2013 Minute Order requires that Defendant's representative appearing at the settlement conference be a non-lawyer.

Defendant Receivables Performance Management, LLC's ("Defendant") Compliance Officer, Mark Case, who handles settlement conferences on behalf of the company, is a lawyer in the state of Washington. (*Declaration of Sean P. Flynn, Esq. ("Flynn Dec."),* ¶ 2.) Further, currently no other employee of Defendant who would be vested with full settlement authority is available to attend the currently scheduled settlement conference, other than Mr. Case. (*Flynn Dec,* ¶ 3.)

On October 16, 2013, after being first notified by Defendant of the current state of affairs, Defense Counsel contacted Plaintiff's Counsel to inquire as to whether Plaintiff would stipulate to continuing the settlement conference to allow a non-lawyer to attend the settlement conference. (*Flynn Dec,* ¶ 4.) Plaintiff's Counsel declined to stipulate. (*Flynn Dec,* ¶ 5.) After being advised that Defendant would seek Ex Parte relief, Plaintiff's Counsel did not indicate whether he would oppose the application or not. (*Flynn Dec,* ¶ 6.)

II. ARGUMENT:

In light of the forgoing facts, Defendant requests that the settlement conference be continued to allow Defendant to appear through a non-lawyer representative who would have full settlement authority, or in the alternative, allow Defendant's Compliance Officer to appear on behalf of Defendant.

Good cause exists for this request. Pursuant to the Court's Minute Order, if Defendant fails to comply with the Minute Order it could be subject to sanctions. Based on the current state of affairs, Defendant cannot comply with the Court's Order and is

1 seeking relief in advance of the currently scheduled settlement conference.

2 **III. CONCLUSION:**

3 For all of the foregoing reasons, Defendant requests that the Court continue the
4 currently scheduled settlement conference to allow Defendant to appear through non-
5 lawyer, or in the alternative, allow Mr. Mark Case to appear on behalf of Defendant.

6
7 Dated: October 17, 2013

FOLEY & MANSFIELD, PLLP

8 By: /s/ Sean P. Flynn

9 Sean P. Flynn
10 Attorneys for Defendant
11 Receivables Performance Management, LLC.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28